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TC05-173

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MARGO D. NORTHRUP, Associate

September 12, 2005

Pamela Bonrud, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota 57501

RECEIVED

SEP 12 2005

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re: Fiber Ring Revenue-Pooling Association (FRRPA)

Dear Pam:

Enclosed herein please find original and ten copies of the Petition of Fiber Ring Revenue-Pooling Association (FRRPA) for Approval of Amended Revenue Pooling Arrangement Documents, along with Exhibits 1-13, for filing.

Please note that Exhibits 2-13 are confidential information, and are filed as such.

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures

CC: Kristi Cavanaugh, Vantage Point Solutions (with enclosures)  
Rod Bowar, President of FRRPA (with enclosures)

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION  
OF FIBER RING REVENUE-POOLING  
ASSOCIATION FOR APPROVAL OF  
AMENDED REVENUE POOLING AR-  
RANGEMENT DOCUMENTS

DOCKET NUMBER \_\_\_\_\_  
PETITION

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SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

COMES NOW Darla Pollman Rogers, of Riter, Rogers, Wattier & Brown, LLP, 319 South Coteau Street, Pierre, South Dakota 57501, attorney for the Fiber Ring Revenue-Pooling Association ("FRRPA"), and represents and petitions to the South Dakota Public Utilities Commission ("Commission") as follows:

HISTORICAL INFORMATION

1. FRRPA was organized on March 17, 1999, to provide a pooling mechanism for a collective, cost shared, cost averaged, nondistance sensitive fully-protected transport network for local exchange companies ("LEC" or "LECs") whose traffic is carried on any of the joint South Dakota LEC and South Dakota Network, LLC ("SDN") SONET (Synchronous Optical Network) ring transport facilities and thus enabled pooling to create a level playing field for ubiquitous survivable transport of telecommunications for a major portion of rural South Dakota. The FRRPA users have had the benefit of survivable, distance insensitive transport for the public switched access network while offering low-cost, distance insensitive, and highly reliable public Internet transport, 911/E911 transport, and extended area service transport.

2. Pooling arrangements to assist telecommunications companies also find favor with the South Dakota Legislature as expressed in SDCL 49-31-83. This statute

states in part that “the commission may not prohibit telecommunications companies from voluntarily forming an association . . . to engage in the pooling of access costs and revenues in a manner which is consistent with preserving and advancing universal service throughout this State or consistent with the Public Communications Network Infrastructure Policies set forth in Sections 49-31-60 and 49-31-61.” Further, SDCL 49-31-59.1 also encourages telecommunications companies to cooperate and jointly provide SONET transport facilities and enter into revenue pooling arrangements between and among them to meet the goals of SDCL 49-31-60 and 49-31-61. The Legislature has clearly declared that its intent is to enable companies in South Dakota to provide infrastructure such as the SONET interconnected survivable rings, which are the subject of this Petition.

3. By establishing a joint provisioning arrangement, coordinating construction, and providing a centralized administration system of the ring facilities, the independent LECs in South Dakota were able to construct, implement, provision and maintain a system of interconnected survivable rings that can serve nearly all independent LEC areas and more than 70 percent of the geography of the State of South Dakota, thereby provisioning the advanced services anticipated and expected by the State of South Dakota as expressed in the legislation referred to herein.

4. FRRPA filed a Petition with this Commission on May 17, 2000, seeking approval of its pooling arrangement (Docket TC00-084). On July 20, 2000, the Commission approved the original FRRPA Petition. The original agreements between the LECs will expire at the end of 2005. In addition, some amendments have been made to FRRPA’s original Administrative Rules and Bylaws. The purpose of this filing is to

amend and update the original FRRPA filing and to seek Commission approval of the revised documents.

### FACTS

5. FRRPA is a South Dakota non-profit corporation organized under SDCL 47-22, and was issued a charter by the Secretary of State of the State of South Dakota on March 17, 1999. A copy of the Certificate of Incorporation and Articles of Incorporation of FRRPA are attached hereto as Exhibit 1.

6. The FRRPA Board of Directors named in the original Articles of Incorporation adopted Bylaws for the corporation. Those Bylaws have recently been amended, and a copy of said amended Bylaws is attached hereto as Confidential Exhibit 2.

7. In order to more efficiently meet the infrastructure deployment goals described in SDCL 49-31-60 and 49-31-61, the LECs in South Dakota, together with SDN, have constructed and provisioned a fully-integrated SONET backbone of interconnected survivable rings. A diagram showing the approximate location of the FRRPA rings is attached hereto as Confidential Exhibit 3.

8. The goals of FRRPA are the same as when FRRPA was originally organized and approved by the Commission. The amendments and revisions to FRRPA documents do not change the underlying principles of FRRPA.

9. In order to achieve the State's legislative goals, SDN and the LECs that own portions of the rings provided those facilities through a contractual agreement between the company and FRRPA. Said contractual agreements were referred to as SONET Ring Provider (SRP) Agreements, and each company providing facilities ex-

cuted an SRP Agreement. Said Agreements were part of the original FRRPA filing. Sample copies of SRP Agreements for SDN and a LEC are attached hereto as Confidential Exhibit 4 and Confidential Exhibit 5, respectively.

10. SDN and LECs in South Dakota that use FRRPA facilities executed Ring User Local (RUL) Exchange Company Agreements. Said Agreements were part of the original FRRPA filing. Sample copies of RUL Agreements for SDN and a LEC are attached hereto as Confidential Exhibit 6 and Confidential Exhibit 7, respectively.

11. Twenty-nine (29) LECs currently participate in FRRPA as an RUL or an SRP. A list of said LECs is attached hereto as Confidential Exhibit 8. The original FRRPA contracts expire December 31, 2005. FRRPA LEC participants and SDN have negotiated and executed new contracts to become effective January 1, 2006. Copies of those new contracts are attached hereto as Confidential Exhibit 9 (SDN-SRP), Confidential Exhibit 10 (LEC-SRP), Confidential Exhibit 11 (SDN-RUL) and Confidential Exhibit 12 (LEC-RUL).

12. The revenue-pooling arrangements between and among the telecommunications companies that use FRRPA facilities are reflected in the FRRPA Administrative Rules. Those rules have recently been amended and a copy of the amended rules is attached hereto as Confidential Exhibit 13.

13. It is not necessary for the Commission to approve any cost studies as a part of this docket, since any FRRPA expenses are already reviewed when a LEC files its individual switched access cost study with the Commission. Such cost studies are also reviewed as a part of the annual Local Exchange Carriers Association (LECA) switched access tariff filing, which is already in place.

14. As stated above, the purpose of this filing is to amend and update the original FRRPA filing and to seek Commission approval of the amended SRP Agreements, RUL Agreements, Administrative Rules, and revised Bylaws.

WHEREFORE, FRRPA prays that the Commission do the following:

1. Find that the FRRPA pooling arrangements are in the public interest;
2. Review the amended documents referenced in Paragraph 14, and attached to this filing, and approve the pooling arrangements between FRRPA and the RULs as represented in the RUL agreements and between FRRPA and the SRPs as represented in the SRP Agreements; and
3. Accordingly, issue an Order approving said arrangements, as provided in SDCL 49-31-59.1.

DATED this twelfth day of September, 2005.

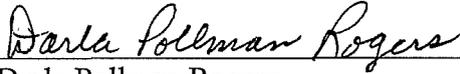
  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Brown, LLP  
P. O. Box 280  
Pierre, South Dakota 57501  
Telephone (605) 224-7889  
Fax (605) 224-7102  
Attorney for FRRPA

Exhibit 1 Certificate of Incorporation and Articles of Incorporation of FRRPA

**CONFIDENTIAL EXHIBITS**

Exhibit 2 Amended Bylaws of FRRPA

Exhibit 3 Diagram Showing the Approximate Location of the FRRPA Rings

Exhibit 4 SONET Ring Provider (SRP) Agreement for SDN

Exhibit 5 SONET Ring Provider (SRP) Agreement for LEC

Exhibit 6 Ring User Local (RUL) Exchange Company Agreement for SDN

Exhibit 7 Ring User Local (RUL) Exchange Company Agreement for LEC

Exhibit 8 Twenty-nine (29) Local Exchange Companies currently participate in FRRPA as an RUL or an SRP

Exhibit 9 2006 SONET Ring Provider (SRP) Agreement for SDN

Exhibit 10 2006 SONET Ring Provider (SRP) Agreement for LEC

Exhibit 11 2006 Ring User Local (RUL) Exchange Company Agreement for SDN

Exhibit 12 2006 Ring User Local (RUL) Exchange Company Agreement for LEC

Exhibit 13 Amended FRRPA Administrative Rules

Exhibit 1

TC05-173

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SOUTH CAROLIA PUBLIC  
UTILITIES COMMISSION

Certificate of Incorporation  
And  
Articles of Incorporation of FRRPA

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

### CERTIFICATE OF INCORPORATION

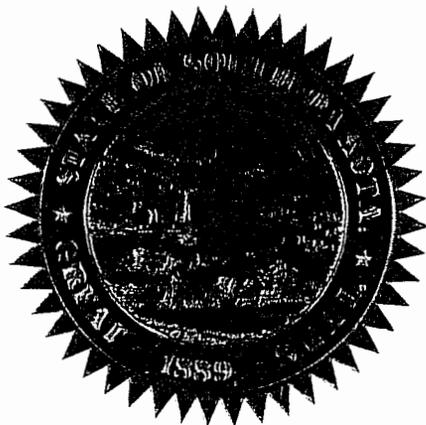
### NONPROFIT CORPORATION

I, JOYCE HAZELTINE, Secretary of State of the State of South Dakota, hereby certify that the Articles of Incorporation of FIBER RING REVENUE-POOLING ASSOCIATION duly signed and verified, pursuant to the provisions of the South Dakota Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I hereby issued this Certificate of Incorporation and attach hereto a duplicate of the Articles of Incorporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this March 17, 1999.

JOYCE HAZELTINE  
Secretary of State



RECEIVED

MAR 17 1999

S.D. SEC. OF STATE

FILED  
174  
March 1999

**ARTICLES OF INCORPORATION**  
South Dakota Nonprofit Corporation  
Organized Pursuant to SDCL Chapter 47-22

*Joseph Hazelton*  
SECRETARY OF STATE

**ARTICLE I**

The name of the corporation is:  
**FIBER RING REVENUE-POOLING ASSOCIATION**

**ARTICLE II**

The period of existence is perpetual.

**ARTICLE III**

The purpose or purposes for which the corporation is organized is to provide, implement and manage, on a nonprofit basis, a revenue-pooling arrangement between and among local exchange companies which are jointly provisioning fully integrated SONET interconnected survivable ring transport facilities, as provided in SDCL 49-31-59.1, and all other lawful activities as provided in SDCL 47-22 to SDCL 47-26 inclusive as amended.

**ARTICLE IV**

The corporation shall have voting members.

**ARTICLE V**

The corporation shall have three classes of membership, which are as follows:

- |                 |  |
|-----------------|--|
| Class A Members | COLEC with more than 13,000 access lines |
| Class B Members | COLEC with 3,000 to 13,000 access lines  |
| Class C Members | COLEC with under 3,000 access lines      |

For purposes of the above, a commonly operated LEC (Local Exchange Carrier), (COLEC) refers to a local exchange carrier and local exchange affiliates or subsidiaries which share common ownership and control.

Eligibility for membership in any of the above classes of membership is as follows:

1. The member must be a local exchange company based in South Dakota.
2. The member must be a local exchange company that delivers or is committed to deliver all of its Public Network Switched (PNS) Traffic over which it has control to South Dakota Network's LATA Access Tandem for a period of not less than seven years, commencing January 1, 1999.
3. The member must have agreed to pay the SONET Transport-Pooling Assessment (STPA) as determined by the Board of Directors from time to time.

#### **ARTICLE VI**

The directors of the corporation shall be elected for one-year terms each year by the members in each membership class.

#### **ARTICLE VII**

The corporation shall be managed by the Board of Directors named herein until the first Annual Meeting of the corporation to be held in the year 2000, at which time a Board of Directors shall be elected and shall take over as the directors of the corporation. The directors named herein shall serve as the Board of Directors until that time. In the event of dissolution or final liquidation of the corporation, assets shall be distributed back to the members in proportion to the amounts contributed by each member; if it is not possible to determine said proportionate amounts, then the assets shall be distributed back to the members in equal shares.

#### **ARTICLE VIII**

The street address of the corporation is 320 East Capitol Avenue, Pierre, South Dakota 57501; its initial registered agent is Brian B. Meyer of Meyer & Rogers, P.O. Box 1117, 320 East Capitol Avenue, Pierre, South Dakota 57501; and attached hereto is his written consent to the appointment.

#### **ARTICLE IX**

The number of directors constituting the initial board of directors is seven, and the names and addresses of the persons who are to serve as the initial directors are as follows:

<u>Name</u>	<u>Address</u>
1. Darrell Henderson	Main Street N. P. O. Box 39 Bison, SD 57620
2. Jack Brown	410 Crown St. P. O. Box 411 Wall, SD 57790
3. Don Snyders	612 Third St. P. O. Box 349 Garretson, SD 57030
4. Randy Houdek	218 Commercial S.E. P. O. Box 157 Highmore, SD 57345
5. Dean Anderson	312 West Fourth St. P. O. Box 920 Clear Lake, SD 57226
6. Dianna J. Quashnick	102 South Main St. P. O. Box 7 Herreid, South Dakota 57632
7. Craig Osvog	525 Western Ave. P. O. Box 588 Brookings, SD 57006

#### ARTICLE X

The names and addresses of the incorporators are:

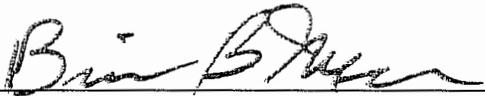
<u>Name</u>	<u>Address</u>
1. Darrell Henderson	Main Street N. P. O. Box 39 Bison, SD 57620
2. Jack Brown	410 Crown St. P. O. Box 411 Wall, SD 57790



**CONSENT TO APPOINTMENT AS REGISTERED AGENT**

I, Brian B. Meyer, of Meyer & Rogers, P.O. Box 1117, 320 East Capitol Avenue, Pierre, South Dakota 57501, do hereby consent to serve as registered agent of **FIBER RING REVENUE-POOLING ASSOCIATION**, a South Dakota Nonprofit Business Corporation organized under Chapter 47 of the South Dakota Codified Laws.

DATED this 25th day of February, 1999.

  
\_\_\_\_\_  
Brian B. Meyer

**CONFIDENTIAL**

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